

### **INITIAL STATEMENT OF REASONS:**

These regulations will implement the Family Foundations Program (FFP) which is an alternative sentencing program being established to comply with the Pregnant and Parenting Women's Alternative Sentencing Program Act provided for in Penal Code (PC) Section 1174 et seq.

The FFP is a 12-month residential program to which pregnant or parenting women are sentenced in lieu of state prison. To be eligible for the program, a woman must have a history of substance abuse and be pregnant or parenting a child under the age of six years. Candidates for the program cannot have a violent criminal history or have been convicted of any of the enumerated offenses listed in PC Section 1174.4. Women will be sentenced to the FFP in lieu of a sentence of up to three years in prison.

Prior to sentencing, if the court proposes to give consideration to placement in the FFP, the court shall consider a written evaluation and recommendation by the county probation office; and a recommendation by the district attorney. If the court determines that the defendant may benefit from participation in the FFP, the court may impose a State prison sentence with the recommendation to the Director of Corrections that the defendant participate in the program. Pursuant to PC Section 1174.4, the Director shall consider the court's recommendation in making a determination as to the inmate's placement into the program. Women will be placed into the FFP directly from the county jail or community and will not be processed through the Department's reception center.

The FFP is designed to provide a highly structured treatment program to non-violent, substance abusing female offenders and their children in a community setting in a facility that has been specifically designed to house this special population, providing space for treatment services, vocational training, and nursery/child care services, in addition to residential living.

In establishing and implementing this program, the Department wishes to: 1) maintain and strengthen the relationship between mother and child through structured parenting classes and experimental learning situations of supervised parent/child interactions; 2) decrease risk factors and provide assistance for medical, physical, neurological, emotional, and behavioral problems of children by providing a program which includes prevention and early intervention, therapeutic nursery, therapeutic child care, personal adjustment skills, and mother/infant/child bonding components; 3) provide support for children regarding their personal adjustment associated with pre-existing or newly identified behavioral problems; 4) reduce the number of mothers and pregnant women in prisons and prevent the separation of infants at birth.

In the interest of reducing alcohol and drug use, criminal activity, the rate of recidivism, and the intergenerational cycle of child abuse and neglect, the Department has made a firm commitment to provide this alternative sentencing program.

The Department must determine that no alternative considered would be more effective in carrying out the purpose of this action or would be as effective and less burdensome to affected private persons than the action proposed.

**Article 6.3 is adopted** to establish the FFP.

**Section 3074.3 is adopted** to describe the various aspects of the FFP.

**Subsections (a) and (b) are adopted** to explain the FFP and to state the eligibility requirements that must be met in order to participate in the program. This is necessary to be consistent with PC Section 1174.4.

**Subsection (c) is adopted** to state the conditions that will render a woman ineligible for the program; specifically if a woman has been convicted of violent crimes and offenses, pursuant to PC Section 1174.4; if she has an active or potential United States Immigration and Naturalization hold or a felony hold that would preclude her from participating in a full-year program or would render her ineligible due to the nature or sentence that would be imposed upon her; or if her child is a dependent of the court and the representative of the appropriate county agency has determined that it is not in the best interest of the child to be placed in the program. Because the facilities that house these women will not have a secured perimeter, the women who participate in the program cannot pose a risk to the safety of the public. This is consistent with the provisions of PC 1174.4, which excludes women who have been convicted of a violent offense. In addition, this subsection states that a woman will not be allowed in the FFP if she is not willing to sign a Voluntary Placement Agreement which outlines the obligations and responsibilities of the program participant. This is necessary to stress that participation in this program requires a commitment by the participant because space in the program is very limited. This is also necessary to be consistent with PC Section 1174.4(g). Provisions of the Voluntary Placement Agreement are consistent with subsections (a) through (d); in addition, this agreement stipulates that each participant must provide for the financial support of her child.

**Subsection (d) is adopted** to state that credit gains and losses will not be applied to participants while they are in the program. The reason for this is because legislative language in PC Section 1174.2(b)(8) stipulates that participants are required to complete a 12-month program. If credit gains and losses were calculated into participants' release dates, their time in the program would vary. This subsection also provides that participants who do not complete the 12-month program will be delivered to State prison, and credit gains and losses for time served in the program will be applied to their case. This is consistent with the provisions of PC Section 1174.4(i).

**Subsection (e) is adopted** to outline the reasons that will cause incomplete program participation requiring delivery to State prison to serve their original sentence. This is necessary to be consistent with treatment of other inmates who fail to participate in their program, who are violent or disruptive, and who use drugs or alcohol. This is also necessary to help prevent a disruptive atmosphere and to help maintain an atmosphere that is conducive to learning and self-improvement.

**Subsection (f) is adopted** to state that program participants who have a health condition or who develop a health condition that cannot be adequately provided for in the program facilities, may be removed from the program. This is necessary to allow better management of acute health care needs.

**Subsection (g) is adopted** to delineate the types of problems that will be addressed in Individual Treatment Plans. It also provides that each participant and her child will have an Individual Treatment Plan developed by a program counselor and that each Plan will describe treatment goals for both the mother and child. Each participant will have unique needs and specific issues that must be addressed in order for her and her child to successfully complete the program and to become a productive, law abiding member of society. These Individualized Treatment Plans will be tailored to each person in order that she have the best chance of achieving this goal.

**Subsection (h) is adopted** to provide that childhood care and development plans will be developed for each child of the participant, addressing each child's specific needs. This is necessary so that the child will benefit from the program as stated earlier.

**Subsection (i) is adopted** to list the types of services and training classes that are available to each participant based on her needs. These services and courses are necessary to provide the participant with

the assistance she needs to successfully complete the program and to become a productive, law abiding citizen upon release from the program.

**Subsection (j) is adopted** to explain the composition of the casework team and to provide that each participant will be assigned a case manager and casework team to develop her Individual Treatment Plan and to monitor her progress toward treatment goals.

**Subsections (k) is adopted** to state that planning for the participant's release from the facility should begin within the first six months of her participation in the residential program. Since the program is only 12 months long, it is imperative that a written plan be developed by the seventh month and that the plan is initiated within nine months. This is necessary to ensure continuity of services upon the participant's release from the residential program and to allow for time to arrange for transitional housing, to locate possible job opportunities and needed social services.

**Subsection (l) is adopted** to comply with PC Section 1174.2, each participant who completes the FFP must also complete 12-months of intensive parole supervision. In order to complete a successful parole and to reduce the incidence of recidivism, the Department will develop and implement a transitional program to aid the participant in becoming a productive member of society.

**Subsection (m) is adopted** to state that drug and/or alcohol use will not be tolerated and that random urine testing will be done to detect illegal drug use. This is necessary to maintain the safety of the children in the program, and prevent them from the exposure to drugs and/or alcohol. Additionally, this is necessary because the FFP is offered to those women who are substance abusers, and the purpose of the program is to keep them drug and alcohol free. If a participant's urine sample reveals the use of drugs or alcohol, she will be removed from the program and transferred to State prison to serve her original sentence. This is consistent with CCR Section 3074.3(d) and (e) and with PC Section 1174.4.

**Subsection (n) is adopted** to provide that the FFP facilities maintain an adequate library where participants and their children can have access to a variety of materials. This is necessary to provide a means of self-improvement and self learning, and to provide an activity for recreational time to both participants and their children.

**Subsection (o) is adopted** to provide that participation in religious programs by participants of the FFP shall be accommodated. Such accommodation may include allowing religious leaders into the facility to perform services or to allow participants to be escorted to religious services in the community. This is necessary to provide another means of assisting participants in reaching their goals and to help them successfully complete the program.

**Subsection (p) is adopted** to provide that visiting hours are only on weekends and selected holidays. This necessary to prevent the interruption of services and classes during the weekdays, and to provide adequate visiting hours. Also, this subsection provides that the visiting hours and conditions be posted in both English and Spanish. This is necessary to give both English and Spanish speaking participants and their families the necessary information with which to plan for their visits.